



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

EDDIE S NG DBA ENG'S PHARMACY
PO BOX 2686
STAFFORD TX 77497

Carrier's Austin Representative Box

Box Number: 53

Respondent Name

UNITED STATES FIRE INSURANCE CO

MFDR Date Received

SEPTEMBER 17, 2010

MFDR Tracking Number

M4-11-0273-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary as stated in the Table of Disputed Services: "no payment nor EOB after 1st & 2nd attempt."

Amount in Dispute: \$517.80

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The prescriptions submitted by requestor were prescribed by Kenneth Berliner, M.D., who is not the treating physician. Furthermore, that has been no medical documentation submitted which demonstrates the prescription medications provided were for health care reasonable required by the nature of the injury as and when needed, nor any records which demonstrate the prescription medications provided were to cure or relieve the effects naturally resulting from the compensable injury. In support of this position, please see the attached opinions from Christine Johnson, M.D. and Brian Buck, M.D."

Response Submitted by: Hoffman Kelley, 5316 Hwy. 290 West, Ste. 360, Austin, TX 78735

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|------------------|--|-------------------|------------|
| May 7, 2010 | HYDROCODONE/ACETAMINOPHEN TAB 10-650 MG | \$248.40 | \$248.40 |
| May 7, 2010 | CARISOPRODOL TAB, 350 mg | \$71.10 | \$71.08 |
| May 7, 2010 | NAPROXEN TAB 500 mg | \$198.30 | \$198.25 |

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307, effective May 25, 2008 33 Texas Register 3954 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.503, effective January 3, 2002; amended to be effective March 14, 2004, sets out the reimbursement for the pharmaceutical services in dispute.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 18 – D: Duplicate Bill 4065-H-438357-1.

Issues

1. Did the respondent raise new issues in their position summary?
2. How is reimbursement established for the services in dispute?
3. Is the requestor due reimbursement?

Findings

1. Review of the respondents position summary finds that new issues were raised. The issues raised were not treating physician and medical documentation. In accordance with 28 Texas Administrative Code §133.307(d)(2)(B) states, in pertinent part, "The response shall address only those denial reasons presented to the requestor prior to the date the request for MDR was filed with the Division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."
2. Reimbursement for the service in dispute may be established by applying 28 Texas Administrative Code §134.503, effective from March 14, 2004 (29 Tex. Reg. 2346), which states, in pertinent part:
 - (a) The maximum allowable reimbursement (MAR) for prescription drugs shall be the lesser of:
 - (1) The provider's usual and customary charge for the same or similar service;
 - (2) The fees established by the following formulas based on the average wholesale price (AWP) determined by utilizing a nationally recognized pharmaceutical reimbursement system (e.g. Redbook, First Data Bank Services) in effect on the day the prescription drug is dispensed.
 - (A) Generic drugs: $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee = MAR;
 - (B) Brand name drugs: $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee = MAR;
 - (C) A compounding fee of \$15 per compound shall be added for compound drugs;or
 - (3) A negotiated or contract amount.

Review of the explanation of benefits, position statements, and other documentation provided by the parties finds that: (1) no contract exists between the parties; and that (2) there are no denial codes or assertions refuting that the amount charged is the usual and customary amount. Consequently, the MAR in this medical fee dispute is established by determining the lesser of the charged amount and the AWP formula pursuant to 28 Texas Administrative Code §134.503(a)(2).

3. 28 Texas Administrative Code §134.503(a)(s) (effective March 14, 2004) states, in pertinent part, that "The fees established by the following formulas based on the average wholesale price (AWP) determined by utilizing a nationally recognized pharmaceutical reimbursement system (e.g. Redbook, First Data Bank Services) in effect on the day the prescription drug is dispensed."

The pharmaceutical in dispute was dispensed on May 7, 2010. After thorough review of the information and documentation provided by the parties, the Division finds:

Neither the respondent nor the requestor asserted an AWP for the following prescription medications:

The Division's AWP database shows an AWP of 0.97760 for HYDROCODONE/ACETAMINOPHEN TAB, 10-650 mg, 200 count, NDC 00591050301; 0.59630 for CARISOPRODOL TAB, 350 mg, 90 count, NDC:

00591551301 and 1.29500 for NAPROXEN TAB 500 mg, 120 count, NDC: 68462019001. The formula is as follows:

- HYDROCODONE/ACETAMINOPHEN TAB, 10-650 mg, 200 count is $0.97760 \times 200 \times 1.25 + \$4.00 = \$248.40$. The respondent paid a total of \$0.00; therefore reimbursement of \$248.40 is due.
- CARISOPRODOL TAB, 350 mg, 90 count is $0.59630 \times 90 \times 1.25 + \$4.00 = \$71.08$. The respondent paid a total of \$0.00; therefore reimbursement of \$71.08 is due.
- NAPROXEN TAB 500 mg, 120 count is $1.29500 \times 120 \times 1.25 + \$4.00 = \$198.25$. The respondent paid a total of \$0.00; therefore reimbursement of \$198.25 is due.

The total MAR for the services in dispute is \$517.73. The respondent paid a total of \$0.00; for that reason, the Division concludes that the requestor is entitled to reimbursement.

Conclusion

For the reasons stated above, the division finds that the requestor has supported its request for additional reimbursement. As a result, the amount ordered is \$517.73.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$517.73 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

February 28, 2014
Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.